

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

**IN THE MATTER OF:**

S & S AUTO SALES, INC.,  
Milwaukee, Wisconsin

**FINDING OF VIOLATION**

EPA-5-99-WI- 16

PROCEEDINGS PURSUANT TO  
SECTION 113 OF THE CLEAN AIR  
ACT, 42 U.S.C. § 7413

**FINDING OF VIOLATION**

The Administrator of the United States Environmental Protection Agency (U.S. EPA) hereby notifies the State of Wisconsin and S & S Auto Sales, Inc. (S & S) that the Administrator of the U.S. EPA finds S & S has violated the following provisions of the Clean Air Act (the Act), as amended, 42 U.S.C. §§ 7401 through 7671q, and its regulations:

- A. Section 609 of the Act, 42 U.S.C. § 7671h, and its implementing regulations at 40 C.F.R. Part 82, Subpart B; and
- B. The regulations implementing Section 612 of the Act, 42 U.S.C. § 7671k, at 40 C.F.R. Part 82, Subpart G

at S & S's facility at 9832 W. Appleton Ave., Milwaukee, Wisconsin.

**STATUTORY AND REGULATORY BACKGROUND**

- 1. Section 609(a) of the Act, 42 U.S.C. § 7671h(a), authorizes the Administrator of the U.S. EPA ("Administrator") to promulgate regulations establishing standards and requirements for servicing motor vehicle air conditioners.
- 2. Section 609(c) of the Act, 42 U.S.C. § 7671h(c), provides in part:

[n]o person repairing or servicing motor vehicles for consideration may perform any service on a motor vehicle air conditioner ... unless such person has been properly trained and certified.

3. On July 14, 1992, the Administrator initially promulgated regulations pursuant to Section 609(a) of the Act, 42 U.S.C. § 7671h(a). These regulations have been subsequently amended and are codified at 40 C.F.R. Part 82, Subpart B (40 C.F.R. §§ 82.30 through 82.42 and Appendices A through F).
4. 40 C.F.R. § 82.42(a)(1) states, in part, that "No later than January 1, 1993, any person repairing or servicing motor vehicle air conditioners for consideration shall certify to the Administrator that such person has acquired, and is properly using, approved equipment and that each individual authorized to use the equipment is properly trained and certified ...."
5. Section 602(b) of the Act, 42 U.S.C. § 7671a(b), requires the Administrator to publish lists of Class I and Class II substances containing specified chlorofluorocarbons (CFCs) and hydrochlorofluorocarbons, respectively, and to add to those lists any other substance that is known or may reasonably be anticipated to cause or contribute to harmful effects on the stratospheric ozone layer.
6. Section 612(c) of the Act, 42 U.S.C. § 7671k(c), requires the Administrator to promulgate rules providing that it shall be unlawful to replace any Class I or Class II substance with any substitute substance that the Administrator determines may present adverse effects to human health or the environment, where the Administrator has identified an alternative that (1) reduces overall risk to human health and the environment and (2) is currently or potentially available, and further requires the Administrator to publish a list of safe alternatives for specific uses.
7. On October 16, 1996, the Administrator promulgated regulations pursuant to Section 612(c) of the Act, 42 U.S.C. § 7671k(c). These regulations are codified at 40 C.F.R. Part 82, Subpart G (40 C.F.R. §§ 82.170 through 82.184 and Appendices A through D).
8. 40 C.F.R. § 82.174(c) states that "[n]o person may use a substitute without adhering to any use restrictions set by the acceptability decision, after the effective date of any rulemaking imposing such restrictions."
9. 40 C.F.R. Part 82 Subpart G, Appendix D, which became effective on November 15, 1996, states, in part, that "[e]ach refrigerant may only be used with a set of fittings

that is unique to that refrigerant," and further specifies the criteria those fittings must meet when existing air conditioner service ports are retrofitted.

10. 40 C.F.R. Part 82 Subpart G, Appendix D further states that when a performing a retrofit, the person conducting the retrofit must apply to the air conditioning system in the engine compartment a label containing specified information.

#### **STATEMENT OF FACTS**

11. S & S Auto Sales, Inc. (S & S) is a Wisconsin corporation with a facility located at 9832 W. Appleton Avenue, Milwaukee, Wisconsin.
12. S & S repairs or services motor vehicles for consideration.
13. During 1998, S & S purchased three 25-pound cylinders of McCool Chill-It, and charged two motor vehicle air conditioners with that substance.
14. McCool Chill-It is a Class II ozone depleting refrigerant substitute blend.
15. Between June 1, 1998 and August 31, 1998, S & S charged an additional 12 to 15 motor vehicle air conditioners with the McCool Chill-It.
16. S & S did not use properly trained and certified technicians to charge the motor vehicle air conditioners with McCool Chill-It.
17. S & S did not install fittings unique to McCool Chill-It on the service ports of the motor vehicle air conditioners that were charged with McCool Chill-It.
18. S & S did not place the required labels on the motor vehicle air conditioners that were charged with McCool Chill-It.

#### **FINDINGS OF VIOLATION**

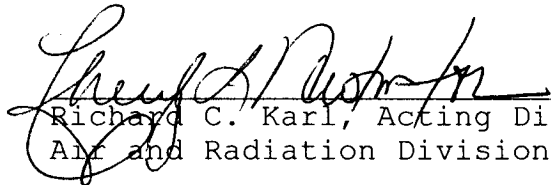
19. Each instance in which S & S serviced a motor vehicle air conditioner with McCool Chill-It without using properly trained and certified technicians is a violation of Section 609(c) of the Act, 42 U.S.C. § 7671h and 40 C.F.R. § 82.42(a)(1).

20. Each instance in which S & S failed to install the required unique fittings on a motor vehicle air conditioner it charged with McCool Chill-It is a violation of 40 C.F.R. § 82.174(c).
21. Each instance in which S & S failed to apply a warning label to a motor vehicle air conditioner it charged with McCool Chill-It is a violation of 40 C.F.R. § 82.174(c).

WHEREFORE, the U.S. EPA hereby notifies S & S Auto Sales, Inc., and the State of Wisconsin that S & S Auto Sales, Inc., violated the Clean Air Act in the manner set forth in this Finding of Violation.

Date: \_\_\_\_\_

3/24/99

  
Richard C. Karl, Acting Director  
Air and Radiation Division